



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0701	Title:	Generally revise marijuana laws
---------------	--------	---------------	---------------------------------

Primary Sponsor:	Hopkins, Mike	Status:	As Amended in Senate Committee
-------------------------	---------------	----------------	--------------------------------

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$1,983,906	\$1,390,507	\$1,392,078	\$1,403,779
State Special Revenue	\$15,458,377	\$14,213,570	\$20,807,781	\$23,121,087
Federal Special Revenue	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
Revenue:				
General Fund (01)	\$6,254,650	\$21,584,650	\$29,664,650	\$34,504,650
SSR - FWP (02)	\$3,260,000	\$10,340,000	\$14,140,000	\$16,420,000
SSR - HEART (02)	\$6,000,000	\$6,000,000	\$6,000,000	\$6,000,000
SSR - Veterans' Services	\$200,000	\$200,000	\$200,000	\$200,000
SSR - Board of Crime Control	\$150,000	\$150,000	\$150,000	\$150,000
SSR - DOJ Funding for K9	\$300,000	\$0	\$0	\$0
SSR - AUM tax revenue (02)	\$8,690,000	\$32,580,000	\$43,980,000	\$51,310,000
SSR - MM tax revenue (02)	\$6,200,000	\$5,580,000	\$5,020,000	\$4,520,000
SSR - License Fees (02)	\$3,900,000	\$4,290,000	\$6,440,000	\$6,760,000
SSR - MMP/Pain Mgmt Funds from DPI	\$4,856,017	\$0	\$0	\$0
Federal Special Revenue (03)	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
Net Impact-General Fund Balance:	\$4,270,744	\$20,194,143	\$28,272,572	\$33,100,871

Description of fiscal impact: HB 701 revises the regulation of both adult-use and medical marijuana, combining administration of adult-use and medical under the Department of Revenue (DOR), changing the revenue distribution, delaying the licensing start date, providing for local opt-in/opt-out, and creating the Healing and Ending Addiction through Recovery and Treatment (HEART) Fund. Amendments to HB 701 have: added \$19 million in federal authority for the HEART Fund, changed the timing and amounts for certain state special revenue accounts receiving adult-use marijuana tax revenue distributions, and allowed a local option tax. The costs contained in this fiscal note include those necessary to implement the full adult-use marijuana program in accordance with statute as passed in I-190, and as amended by HB 701. A crosswalk from I-190 to HB 701 can be found in Technical Note #10 of this fiscal note.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. HB 701 revises the regulation and taxation of both adult-use and medical marijuana.
2. Some of the important changes this bill makes that are relevant to the estimates in this fiscal note include:
 - a. Transferring the administration of the medical marijuana licensing and tracking to the Department of Revenue.
 - b. Revising the specific license types required to participate in the production or sale of marijuana and setting the license fees.
 - c. Delaying the licensing start date for current medical marijuana licensees to January 1, 2022, and the application start date for new licensees to July 1, 2023.
 - d. Changing the distribution of the adult-use marijuana tax revenue, medical marijuana tax revenue, and marijuana license fee revenue.
 - e. Requiring counties to opt-in/opt-out through a local election to allow adult-use marijuana dispensaries in the county, depending on if voters in each county supported or opposed I-190.
 - f. Encouraging dispensaries to utilize a cashless payment system at the point of sale and requiring licensees to purchase tracking tags for seed-to-sale tracking, instead of the DOR providing them.
3. Amendments to this bill made in the senate marijuana committee include the following changes:
 - a. Changing the distribution of the excess funds in the marijuana state special revenue account to include funding for Habitat Montana and veterans' services.
 - b. Correcting the appropriation to the DOR and adding appropriations from the various revenue accounts.
 - c. Automatically opting-in counties who had a majority vote yes for I-190 and allowing current medical marijuana licensees to begin selling adult-use marijuana on January 1, 2022.
 - d. Adding back in the local-option marijuana tax at a 3% maximum.
 - e. Adds two tiers to the cultivator licenses and allows current medical licensees to increase tiers fast during the first 18 months of adult-use sales. New licensees will have to come in at a tier 2 or lower.
 - f. Other amendments that do not impact this fiscal note.

These amendments, as a whole, do not change the total estimated tax revenue or the administrative costs to the DOR.

DOR: Sales Tax Revenue – Adult-use Marijuana

4. The current law tax on adult-use marijuana is 20% and the current law revenue estimates are in the table below. These estimates were generated using the estimated potential sales in Montana published in a September 2020 report by the University of Montana Bureau of Business and Economic Research as a starting point for the potential demand in calendar year (CY) 2022. A downward adjustment was made for CY 2022 based on initial supply limitations as a result of only current medical marijuana licensees being allowed to sell adult-use marijuana for the first year. Moderate growth rates based on the growth of legal marijuana sales in Washington, Oregon, California, Colorado, Nevada, and Alaska of 60%, 20%, and 10% were used to project the annual sales for CY 2023, CY 2024 and CY 2025, respectively. The calendar year sales were then converted to fiscal year (FY) sales, and both are presented in the table below, along with the estimated tax revenue and the general fund and state special revenue portions. These estimates are based on the assumption that sales would begin January 1, 2022.

Year	Current Law I-190 (millions)				
	CY Sales	FY Sales	Tax Revenue (20%)	General Fund Revenue (10.5%)	State Special Revenue
2022	\$130.3	\$65.2	\$13.03	\$1.37	\$11.66
2023	\$208.5	\$169.4	\$33.88	\$3.56	\$30.33
2024	\$250.2	\$229.4	\$45.87	\$4.82	\$41.06
2025	\$275.2	\$262.7	\$52.55	\$5.52	\$47.03

- Under current law, the state special revenue would be allocated for the following purposes: wildlife habitat and state parks, local government commerce, veteran services, Medicaid rate increases, and drug addiction treatment.
- This bill delays the start of adult-use licensing from October 1, 2021 to January 1, 2022. As amended, this bill allows current medical licensees, in counties that are opted-in, to begin selling adult-use marijuana January 1, 2022.
- This bill also extends the moratorium where only current medical marijuana licensees can get licensed to sell adult-use marijuana until July 1, 2023. This is assumed to slow the growth in calendar year sales. The HB 701 estimated calendar year sales, presented in the following table, assume a full 12 months of sales in CY 2022 and adjusted growth rates of 50%, 25%, and 10% for CY 2023, CY 2024, and CY 2025. The table also includes the sales adjusted to fiscal years, the tax revenue (20%), and the estimated revenue from medical marijuana sales and license fees, which would all be deposited in the marijuana state special revenue account. The medical marijuana tax revenue, license fee revenue, and DPHS transfers are detailed in the next three sections.

HB 701 Proposed Law - sales begin January 1, 2022 (millions)						
Year	CY sales	FY Sales	AUM Tax Revenue (20%)	MM Tax Revenue (4%)	License Fee Revenue	DPHHS Fund Transfers
2022	\$130.3	\$65.2	\$13.03	\$6.20	\$3.90	\$4.86
2023	\$195.5	\$162.9	\$32.58	\$5.58	\$4.29	\$0.00
2024	\$244.4	\$219.9	\$43.98	\$5.02	\$6.44	\$0.00
2025	\$268.8	\$256.6	\$51.31	\$4.52	\$6.76	\$0.00

- This bill, as amended, requires counties or municipalities to opt-in through approval by the qualified electors to allow growing, manufacturing, and selling of adult-use in the county or municipality, if the county voted against I-190. The 28 counties with a passing vote total for I-190 are automatically opted-in and would have to pass a vote of the electors to opt-out. It is assumed that all the medical marijuana licensees in the opted-in counties would begin selling adult-use marijuana on January 1, 2022.

DOR: Sales Tax Revenue - Medical Marijuana

- Under current law, the medical marijuana tax is 4% and will decrease to 2% starting October 1, 2021. This bill keeps the medical marijuana tax at 4%, indefinitely.
- Current medical marijuana sales tax collections for FY 2021 are projected to be about \$6.2 million, which imputes to about \$155 million in sales at a 4% tax rate. With the legalization of adult-use marijuana, it is assumed that medical marijuana sales will remain at \$155 million for FY 2022 and then start declining at 10% per year beginning in FY 2023. The following table shows the estimated revenue under current law, this bill, and the change in revenue because of this bill (all values are in millions).

FY	Medical Marijuana Sales	Current Law Tax Revenue	Proposed Law Tax Revenue	Change in Revenue
2022	\$155.0	\$3.88	\$6.20	\$2.33
2023	\$139.5	\$2.79	\$5.58	\$2.79
2024	\$125.6	\$2.51	\$5.02	\$2.51
2025	\$113.0	\$2.26	\$4.52	\$2.26

11. Beginning January 1, 2022, the medical marijuana tax revenue will be deposited in the marijuana state special revenue account and the current distribution of medical marijuana tax revenue will be repealed. Prior to then, any excess revenue in the medical marijuana state special revenue account would be transferred to the marijuana state special revenue account on July 1, 2021 and December 31, 2021.

DOR: License Fee Revenue

12. This bill includes the following license types required for participation in the marijuana industry and the corresponding initial annual fees:

- a. Cultivator licenses in 13 tiers based on number of locations and total square footage of cultivation, with fees from \$1,000 to \$37,000,
- b. Manufacturing licenses in three tiers based on monthly production of concentrate with fees of \$5,000, \$10,000 or \$20,000,
- c. Dispensary licenses with a fee of \$5,000 per location,
- d. Testing laboratory licenses with a fee to be established by the department through rules,
- e. Transporter licenses, which must be renewed every two years, and the fee will be established by the department through rule, and
- f. Combined-use Marijuana licenses include a tier 1 canopy license and one dispensary license and may be issued to each of the eight federally recognized tribes in the state for use within 150 air-miles of the boundary of the relevant reservation.

This bill also requires any individual employed by a marijuana licensee to apply for and obtain a marijuana worker permit to work in the industry. The department may establish an application fee for this permit.

13. From January 1, 2022 to June 30, 2022, the department may only accept applications and issue cultivator licenses, manufacturing licenses, and dispensary licenses to individuals who were medical marijuana licensees as of November 3, 2020. Beginning July 1, 2023, the department shall begin accepting applications and issuing licenses to those who did not qualify previously.

14. Based on the current medical marijuana licensees and expected growth in the industry, the license fee revenue to be collected by the department is estimated to be approximately \$3.9 million in FY 2022, \$4.3 million in FY 2023, \$6.4 million in FY 2024, and \$6.8 million in FY 2025.

DOR: Fund Balances from DPHHS

15. Section 82 of HB 701 eliminates the transfer from the Medical Marijuana state special revenue account to the Pain Management Education and Treatment state special account. In addition, the section transfers the balance of the funds in the Medical Marijuana account to DOR on December 31, 2021. As a result, DPHHS expenditures are reduced by \$2,560,195 in FY 2021, with an offsetting increase to the DOR.

16. Section 82 also transfers the balance of the Pain Management Education and Treatment account to the DOR Marijuana account on July 1, 2021. The resulting transfer decreases expenditures in DPHHS by \$2,295,822 with an offsetting increase to the DOR.

DOR: Distribution of Revenue

17. The distribution under this bill starts with the revenue from adult-use and medical marijuana taxes and license fees being deposited in the marijuana state special revenue account. The revenue from the account is first used to cover the administrative costs to the DOR, and then at the end of the fiscal year, the remainder is distributed as follows:

- a. \$6 million to the marijuana healing and ending addiction through recovery and treatment (HEART) fund account established in MCA, 17-6-606.
 - b. 20% to FWP for wildlife habitat as provided in MCA, 87-1-209.
 - c. 4% each to the state park account, trails and recreational facilities account, and the nongame wildlife account.
 - d. 3%, up to \$200,000, to veterans and surviving spouses state special revenue account.
 - e. \$300,000 for the biennium beginning July 1, 2021 to the Department of Justice (DOJ) for grant funding to local and state law enforcement for drug-detection canine training.
 - f. \$150,000 per year to the board of crime control.
 - g. The remainder to the general fund.
18. The following table shows the estimated amount of revenue available for distribution. The total revenue for distribution is the sum of the adult-use tax, medical tax, and license fee revenues from the above sections. The administrative costs are detailed in the next section.

HB 701 Revenue for Distribution (millions)					
FY	AUM Tax	MM Tax	License Fees	Total Revenue for distribution	DOR costs
2022	\$13.03	\$6.20	\$3.90	\$23.13	\$6.93
2023	\$32.58	\$5.58	\$4.29	\$42.45	\$4.14
2024	\$43.98	\$5.02	\$6.44	\$55.44	\$5.25
2025	\$51.31	\$4.52	\$6.76	\$62.59	\$5.28

19. The following table shows the estimated amount of revenue to be distributed to each account under this bill after DOR costs are covered.

HB 701 Distribution of Estimated Revenue (millions)							
FY	HEART fund	Habitat MT	Total to Other 3 FWP Accounts	Veteran's Services	Board of Crime Control	DOJ - Canines	General Fund Revenue
2022	\$6.00	\$2.04	\$1.22	\$0.20	\$0.15	\$0.30	\$6.29
2023	\$6.00	\$6.46	\$3.88	\$0.20	\$0.15	\$0.00	\$21.62
2024	\$6.00	\$8.84	\$5.30	\$0.20	\$0.15	\$0.00	\$29.70
2025	\$6.00	\$10.26	\$6.16	\$0.20	\$0.15	\$0.00	\$34.54

20. The bill includes the following appropriations to allow for the spending of the revenue distributed above:
- a. \$6 million in state special revenue and \$19 million in federal special revenue each year of the 2023 biennium to DPHHS in accordance with the HEART fund.
 - b. \$300,000 to DOJ for the 2023 biennium.
 - c. \$150,000 to the board of crime control each year of the 2023 biennium.
 - d. \$650,000 to FWP from the state parks account for FY 2022 and \$1,082,000 for FY 2023. For the purposes of this fiscal note, the appropriation is equal to the revenue estimate for the 2025 biennium.
 - e. \$650,000 to FWP from the trails and recreational facilities account for FY 2022 and \$1,082,000 for FY 2023. For the purposes of this fiscal note, the appropriation is equal to the revenue estimate for the 2025 biennium.
 - f. \$650,000 to FWP from the nongame wildlife account for FY 2022 and \$1,082,000 for FY 2023. For the purposes of this fiscal note, the appropriation is equal to the revenue estimate for the 2025 biennium.
 - g. \$200,000 to the veteran’s affairs division of the Department of Military Affairs for the 2023 biennium and 2025 biennium.
 - h. \$0 for to FWP in FY 2022 for wildlife habitat and \$5,412,000 in FY 2023. For the purposes of this fiscal note, the appropriation is equal to the revenue estimate for the 2025 biennium.

DOR: Agency Costs

21. For the purposes of this fiscal note, the following costs are the total costs to implement and administer the Montana Marijuana Regulation and Taxation Act, not the change in costs as a result of this bill relative to current law.
22. The DOR will create a new marijuana division with the following personnel (FTE) beginning in FY 2022: 1 administrator, 1 bureau chief (increasing to 2 in FY 2023), 2 unit managers, 2 management analysts, 4 compliance specialists, 13 investigators, 2 auditors, 1 compliance officer (starting January 1, 2022), 1 administrative specialist, 3 registered cardholder positions, 1 paralegal assistant, and 1 education specialist. Additional costs for this division include travel, vehicles, firearms, and phones for investigators.
23. Of the 31.5 FTE in this division in FY 2022 and 33 FTE in FY 2023, 22 will be transferred from the DPHHS medical marijuana program. Other divisions in the department will also need to hire additional staff, and those positions are outlined below.
24. The Director's Office will add 1 paralegal assistant and 1 administrative law judge starting January 1, 2022, and 1 public relation specialist for the full FY 2022.
25. The Information Management Collections Division within the department will add 1 computer operator starting January 1, 2022, increasing to 2 in FY 2024, and 1 collections specialist beginning in FY 2024.
26. The Business and Income Tax unit within the department will add 1 new tax examiner in FY 2022, increasing to 5 in FY 2024, with travel and vehicles.
27. The Technology Services Division (TSD) within the department will add 2 computer system analysts beginning in FY 2024.
28. The department will have a one-time contracted services cost in FY 2022 of \$3 million to get the new tax type and licensing added to the integrated revenue information system and annual costs of \$65,000 for the medical cardholder system licensing.
29. The department will also be responsible for a \$40 per month tracking system reporting fee for each provider, and the licensees will be responsible for providing the tracking tags for each plant and package or product in the seed-to-sale tracking system. Total estimated costs to the department for the tracking system fees are \$129,600 for FY 2022, \$129,600 for FY 2023, \$388,800 for FY 2024, and \$388,800 for FY 2025.
30. Total estimated costs to the department are \$6,930,492 in FY 2022, \$4,136,011 in FY 2023, \$5,248,216 in FY 2024, and \$5,281,515 in FY 2025.
31. The amended bill appropriates \$6,930,492 in FY 2022 and \$4,136,011 in FY 2023 for 34 FTE from the marijuana state special revenue account to cover the costs to the department.

Department of Public Health and Human Services (DPHHS)

32. Section 46 subsection 4(a) of HB 701 transfers \$6 million of revenue to the Healing and Ending Addiction through Recovery and Treatment (HEART) fund at the end of each fiscal year, beginning in FY 2022, assuming revenues are sufficient. DPHHS is appropriated \$6m per year of the biennium from the HEART fund. These appropriations are to be included as part of the base budget for the biennium beginning July 1, 2023. See Technical Note #1.

DPHHS: Medical Marijuana Program (MMP)

33. Section 104 of HB 701 repeals the entirety of the Medical Marijuana Program (MMP), currently authorized in Title 50, Chapter 46, Part 3 of Montana Code Annotated (MCA) on January 1, 2022.
34. Per Section 116 (2), there are identified sections that would be effective upon passage and approval of HB 701. Those sections that impact the current Medical Marijuana Program include: 79(2) and (8b), 80, and 81. The impact results in registered medical card holders no longer having to report to DPHHS that they are self-providers. This change would require a licensing system update. Currently, the individual applying to be a cardholder is asked if they are "growing for their own use". Based on that information, individuals are issued cards that indicates the individual is a self-provider. These system updates can be made under the current vendor contract at no additional charge.

35. All functions of the MMP, which include inspection and licensure of medical marijuana providers and the issuance of registry identification cards to Montana residents with debilitating medical conditions, will transfer to the Department of Revenue (DOR) on July 1, 2021. This includes 22.0 FTE and associated personal services budget authority, operational budget authority, IT Systems, etc.
36. MMP currently utilizes Complia for the licensing of providers and cardholders and Metrc for seed to sale tracking of marijuana product. The contracts for these systems are currently renewed through 2/28/2022. This fiscal note assumes that DOR will utilize these same systems.
37. The MMP estimates 33 pages of associated rule changes as a result of HB 701, at \$50 per page for a cost of \$1,650 in FY 2022. Because the budget for the MMP will exist at the DOR for FY 2022, it is assumed these costs will be reflected in the fiscal note section for DOR.
38. Section 82 eliminates the fiscal year end transfer (any excess funds above \$250,000) from the Medical Marijuana state special revenue account to the Pain Management Education and Treatment special revenue account, beginning with transfers made in FY 2022. This results in a reduction of \$2,310,195 in FY 2022 and \$1,620,630 in FY 2023 through FY 2025 that would have transferred to the Pain Management fund but would remain in the Medical Marijuana state special account.
39. Section 82 transfers the fund balance of the Medical Marijuana state special account to the Marijuana state special revenue account (managed by DOR) on July 1, 2021 and any remaining fund balance on December 31, 2021. This is estimated to result in a one-time transfer of \$2,560,195 in FY 2022 to the Marijuana special revenue account managed by DOR.
40. Section 83 transfers the balance of the Pain Management special revenue account to the Marijuana state special revenue account on July 1, 2021. Transfers made to this account were \$545,459 in FY 2020 (excess balance related to FY 2019), and \$1,750,363 in FY 2021 (excess balance related to FY 2020). This is estimated to result in a one-time transfer of \$2,295,822 in FY 2022 to the Marijuana special revenue account managed by DOR. See Technical Note #2.
41. As amended, HB 701 (Amendment 701.001.021) changes required fingerprint background checks of providers from every 3 years to every 5 years. This change is upon passage and approval of HB 701. This has the potential of a small fiscal impact to the Medical Marijuana Program as the program would be processing background checks less frequently than currently done. Background checks are \$20 per individual.

DPHHS: Public Health and Safety Division

42. Section 50(2)(a) requires the state laboratory to endorse, instead of license, a testing laboratory prior to the testing laboratory applying for licensure or renewal with DOR. The state laboratory estimates two additional testing laboratories would open over the next two years. Testing laboratories must be inspected once a year. Each inspection is estimated to cost \$221 for hotel, motor pool, and per diem for a total cost of \$442 per year.
43. The state laboratory estimates 20 pages of associated rule changes in the passage of this bill at \$50 per page for a cost of \$1,000 in FY 2022.

Department of Justice (DOJ)

44. DOJ expects an increase in DUI cases from the passage of HB 701. Based on numbers reported from Washington state and Denver, CO, the DOJ estimates there will be an increase of 77% (2692 cases) that will be processed through the Forensic Science Division (FSD) toxicology section. The increase in DUI cases will also influence the intake section in the FSD.
45. Based on the assumption of increased cases, it is estimated that the DOJ will require 4.5 FTE in the Forensic Science Division. The FTE consist of the following expenses:
 - a. For FY 2022, DOJ will need 2.00 FTE forensic scientist with an overall expense of \$208,029, of which \$161,170 is personal services and \$46,859 operating. Within the operating costs, \$22,001 are one-time costs and \$24,858 are ongoing.
 - b. An additional 2.50 FTE forensic scientists will be needed beginning in FY 2023.
46. Non-FTE related operating costs associated with a single DUI drug case is \$46.77/Case. The increase of 2692 cases would result in an operations expense increase of \$125,905 a year. ($\$46.77 \times 2692 = \$125,905$)

47. Based on new marijuana provider facilities, there will be an increase in fire inspections required. It is estimated that the increased workload of inspections and administrative process associated with the inspections throughout the year will result in a need of 5.0 FTE in the Division of Criminal Investigation of the DOJ. The FTE consist of the following expenses:
 - a. An additional 2.0 FTE deputy fire marshal and 1.0 FTE administrative assistant with an overall expense of \$233,039 in FY 2022, of which \$182,100 is personal services and \$50,939 is operating. Withing the operating costs, \$22,001 is OTO and \$28,938 are ongoing.
 - b. An additional 2.00 FTE fire marshals will be needed beginning in FY 2023.
 - c. Travel expenses are estimated to cost \$8,400 a year and rent is estimated at \$35,000 a year.
48. An average of 942 citations were written for misdemeanor marijuana possession in 2018-2020.
49. Section 8 of this bill states that marijuana products or paraphernalia must be stored in a trunk, back seat, or glove box of a vehicle and cannot be visible.
50. Montana Highway Patrol (MHP) assumes that 25% of the average paraphernalia citations written (approximately 235 citations written) would still be written due to violations mentioned in Section 8.
51. Half of the revenue received from citations goes to the general fund and half goes to the county in which the citation was written.
52. MHP assumes a decrease of \$35,350 each fiscal year due to the implementation of the bill. (942 citations x 75% = 707 fewer citations x \$100 = -\$70,700 / 2 = -\$35,350)
53. HB 701 adds the ability of DOJ to test oral fluid for marijuana. To be able to do that, oral fluid testers would need to be purchased for each uniformed employee. These testers are similar to the PBT testers that each trooper uses to test for alcohol. MHP assumes \$900,000 would be needed to purchase additional testers. (\$4500 x 200 devices = \$900,000)
54. Oral fluid testing kits would also need to be purchased. MHP assumes that 625 test kits would be needed each year for a total annual cost of \$15,625.
55. It is expected that provisions of this bill will be challenged, and the Legal Services Division (LSD) will be called in to litigate any lawsuits on behalf of the state. It is expected that litigation will span over a two-year period, resulting in an estimated at \$15,000 in FY 2022 and \$24,000 in FY 2023 in expenses, which includes deposition fees, outside consultation, and exhibit costs.
56. Recent amendments provide \$300,000 in state special revenue for the 2023 Biennium to the DOJ to be distributed as grants to local and state law enforcement to be sued for the training of K9 handlers and the replacement of K9s who were trained to detect marijuana. For this fiscal note, DOJ assumes that the entire \$300,000 will be expended in FY 2022.

Judicial Branch

57. Sections 39, 44, and 57 provide for DOR actions related to the rejection of license applications, fines, suspension or revocation for unlawful conduct by licensees, and license suspension or revocation related to inspections of licensed premises. Review of DOR actions must be conducted by the DOR's office of dispute resolution.
58. Decisions by DOR's office of dispute resolution may be appealed by filing a complaint with the district court, thereby creating new hearings.
59. Adding additional hearings will further increase judicial workload. The Judicial Branch is unable to estimate the impact of these new cases on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because the court dockets are generally full throughout the state.
60. Section 102 provides for the appointment of a judge pro tempore or special master to determine petitions for expungement or resentencing of marijuana convictions.
61. The Judicial Branch assumes that the judge pro tempore (judge) will be appointed effective July 1, 2021 and will be paid the same rate as an elected district court judge.
62. The Judicial Branch assumes that in addition to the judge two additional full-time staff will be necessary to provide ongoing support. The additional staff include a judicial assistant and a court reporter.

63. IBARS data for similar positions is used to estimate the costs for the appointed judge and related staff.
64. The costs (salary and benefits) for the positions for a full year in FY 2022 are estimated as follows: appointed judge = \$166,783; judicial assistant = \$56,054, and court reporter = \$79,233 for total personal services costs of \$302,070.
65. The costs (salary and benefits) for the positions for a full year in FY 2023 is estimated as follows: appointed judge = \$166,783; judicial assistant = \$56,091, and court reporter = \$79,537 for total personal services costs of \$302,411.
66. One-time startup costs include the standard new employee package of a desk, chair, bookshelf, and file cabinet for \$4,800 (\$1,600 x 3 employees); computers at \$3,600 (\$1,200 x 3 employees); one set of MCA books for \$750; the cost of a copier/scanner/fax machine at \$4,500, employee ads for a total of \$200; court reporting equipment at \$10,000. Total one-time startup costs to be incurred in FY 2022 are estimated at \$23,850.
67. The judge and staff will incur annual ongoing operating costs which are based on FY 2019 actuals with estimated annual costs as follows: data network charges at \$1,020/employee (\$85/month/employee); office supplies at \$462/employee; subscription to online legal research for the office \$1,800; copy costs \$48/employee; communications \$542/employee; books and reference materials \$775; court reporter equipment maintenance \$645. Fiscal year 2019 actuals were used to build these estimates as FY 2020 actuals contain potential impacts related to COVID19.
68. Operating costs are estimated at \$9,436 for each fiscal year 2022 and 2023.
69. The judge and staff will require office space, which is assumed to be located in a private/non-state building. Office space is estimated at 1,800 square feet and would include three offices, a conference room and storage space. The current estimated lease rate per square foot is estimated at \$19 for a total annual cost of \$34,200. Lease costs will be incurred for a full year in FY 2022 and FY 2023. Lease costs are assumed to increase 3% each year starting in FY 2024.
70. Section 103 of the bill allows the judge to hear petitions in any venue stipulated by the petitioner and the county attorney. The Judicial Branch assumes most hearings will be held remotely from Helena, but some will be held in courtrooms, which will require funding for travel costs.
71. It is assumed that the judge and the court reporter will travel together one week each month (five days) to different district court courtrooms across the state.
72. Travel costs are based on the following assumptions: mileage will be paid at the high rate of .56/mile for an estimated 701 miles round trip, which is the average of round trips miles to the furthest courtrooms in the state (418 miles from Helena to Libby and 984 miles from Helena to Plentywood) for an estimated \$393 per monthly trip; per diem for five days for both employees is estimated at \$305 ((\$7.50 for breakfast + \$8.50 for lunch + \$14.50 for dinner) x two employees x five days); lodging costs are estimated at \$112 for one night (standard rate of \$96 + tax) for total lodging for each monthly trip at \$896 (\$112 x four nights lodging x two employees).
73. Total travel costs for each monthly trip are estimated at \$1,594 (\$393 mileage + \$305 per diem + \$896 lodging) or \$19,123 per year.
74. The total costs for each fiscal year are as follows:
 - a. FY 2022 = \$388,684 (\$302,070 personal services + \$23,850 one-time startup + \$9,436 operating + \$34,200 leased office space + \$19,128 travel)
 - b. FY 2023 = \$365,175 (\$302,411 personal services + \$9,436 operating + \$34,200 leased office space + \$19,128 travel)
 - c. FY 2024 = \$371,166 (\$306,947 personal services + \$9,578 operating + \$35,226 leased office space + \$19,415 travel), costs are FY 2023 personal services, operating, and travel increased by 1.5% for inflation and lease costs increased by 3%.
 - d. FY 2025 = \$377,261 (\$311,551 personal services + \$9,721 operating + \$36,283 leased office space + \$19,706 travel), costs are FY 2024 personal services, operating and travel increased by 1.5% for inflation and lease costs increased by 3%.

Department of Fish, Wildlife and Parks (FWP)

75. Following the distribution to the HEART Fund, twenty percent will go to FWP for wildlife habitat as provided in MCA, 87-1-209, four percent will go to the state park account, four percent will to the trails and recreational facilities account, and four percent will go to the nongame wildlife account.
76. Based on estimates by the Department of Revenue, FWP will receive tax revenue of \$3.26 million in FY 2022, \$10.34 million in FY 2023, \$14.14 million in FY 2024, and \$16.42 million in FY 2025. The analysis in this fiscal note assumes FWP will fully expend the revenue received in each year, up to the level of appropriation in Section 108 of the HB 701.

Department of Military Affairs

77. Following the distribution to the HEART Fund, the Department of Military Affairs will receive three percent of the remaining revenue, up to \$200,000 to provide services and assistance to all Montana veterans and surviving spouses and dependents. The analysis in this fiscal note assumes DMA will fully expend the revenue received in each year, up to the level of appropriation in Section 108 of the HB 701.

Department of Corrections (DOC)

78. HB 701 would amend the language of Title 16, Chap. 12 of the Montana Code Annotated, where the recently passed marijuana legalization initiative I-190 has been codified. I-190 legalized the possession, purchase, use, ingestion, distribution without consideration or cultivation in certain circumstances by persons 21 years of age or older.
79. HB 701 would continue the existing prohibition on persons in the custody or under the supervision of the DOC from holding medical marijuana registry cards.
80. The legislation would continue the current limitation that does not permit consumption or possession of marijuana or paraphernalia on the grounds of any correctional facility.
81. HB 701 would prohibit persons in the custody of, or under the supervision of the DOC from receiving a license to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory.
82. Recent amendments provide \$150,000 each year in funding and authority from the adult-use marijuana tax to DOC for crisis intervention team training. For the purposes of this fiscal note, DOC expects to fully expend the \$150,000 each year.

Legislative Branch (LEG)

83. HB 701, Section 27, assigns legislative monitoring and oversight for medical marijuana to the Economic Affairs Interim Committee (EAIC).
84. The EAIC has eight members.
85. The EAIC shall identify issues to require future legislative attention and develop legislation.
86. HB 701 adds duties to an existing interim committee. It is assumed that Legislative Services Division will absorb the additional meetings with existing staffing.
87. HB 701 does not provide an expiration date for the additional duties added to the EAIC.
88. The effective date of HB 701 is January 1/2022. For the purposes of this fiscal note, it is assumed that there will be three additional one-day meetings in Helena added to the EAIC for the 2023 biennium. Two meetings in FY 2022 and one meeting in FY 2023.
89. For the 2025 biennium, it's assumed that there will be three additional one-day meetings in Helena. Two meetings in FY 2024 and one meeting in FY 2025.
90. Personal services and operating costs for HB 701 are \$10,698 in FY 2022, \$4,029 in FY 2023, \$10,858 in FY 2024, and \$4,090 in FY 2025.
91. If additional funding is not included in HB 2, then EAIC will need to absorb the additional duties within their regular budget. This may limit the other discretionary study activities that the committee could conduct.

Office of the State Public Defender

92. OPD assumes a minimum of one new misdemeanor case each fiscal year at an expense of \$479.36.
 - a. OPD minimum defense of a misdemeanor under title 45 section 9 is seven hours per case.
 - b. The current all inclusive hourly rate for casework is \$68.48 established by the 2019 performance audit.

- c. The increase is calculated by multiplying the hours per misdemeanor case by they hourly rate, a 1.5% inflation rate has been added to FY 24 and FY 25. (7 hours * \$68.48 per hour = \$479.36)

DOR	FY 2022	FY 2023	FY 2024	FY 2025
	Difference	Difference	Difference	Difference
Fiscal Impact:				
FTE	35.00	38.00	46.00	46.00
Expenditures:				
Personal Services	\$2,938,529	\$3,254,569	\$3,963,943	\$4,014,671
Operating Expenses	\$3,991,963	\$881,442	\$1,284,273	\$1,266,844
TOTAL Expenditures	\$6,930,492	\$4,136,011	\$5,248,216	\$5,281,515
Funding of Expenditures:				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$6,930,492	\$4,136,011	\$5,248,216	\$5,281,515
TOTAL Funding of Exp.	\$6,930,492	\$4,136,011	\$5,248,216	\$5,281,515
Revenues:				
General Fund (01)	\$6,290,000	\$21,620,000	\$29,700,000	\$34,540,000
State Special Revenue - AUM tax revenue	\$8,690,000	\$32,580,000	\$43,980,000	\$51,310,000
State Special Revenue - MM tax revenue	\$6,200,000	\$5,580,000	\$5,020,000	\$4,520,000
State Special Revenue - License Fees	\$3,900,000	\$4,290,000	\$6,440,000	\$6,760,000
SSR - MMP/Pain Mgmt Funds from DPHHS	\$4,856,017	\$0	\$0	\$0
TOTAL Revenues	\$29,936,017	\$64,070,000	\$85,140,000	\$97,130,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	\$6,290,000	\$21,620,000	\$29,700,000	\$34,540,000
State Special Revenue (02)	\$16,715,525	\$38,313,989	\$50,191,784	\$57,308,485
DPHHS				
	FY 2022	FY 2023	FY 2024	FY 2025
	Difference	Difference	Difference	Difference
Fiscal Impact:				
FTE	(22.00)	(22.00)	(22.00)	(22.00)
Expenditures:				
Personal Services	(\$1,479,413)	(\$1,480,729)	(\$1,480,729)	(\$1,480,729)
Operating Expenses	(\$2,448,719)	(\$2,449,712)	(\$2,449,706)	(\$2,449,699)
Benefits for HEART Fund	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000
Benefits for Pain Management	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
Transfers MMP/Pain Mgmt Funds to DOR	\$4,856,017	\$0	\$0	\$0
TOTAL Expenditures	\$24,927,885	\$20,069,559	\$20,069,565	\$20,069,572
Funding of Expenditures:				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$5,927,885	\$1,069,559	\$1,069,565	\$1,069,572
Federal Special Revenue (03)	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
TOTAL Funding of Exp.	\$24,927,885	\$20,069,559	\$20,069,565	\$20,069,572
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
SSR - HEART Appropriation	\$6,000,000	\$6,000,000	\$6,000,000	\$6,000,000
Federal Special Revenue - HEART Match (03)	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
TOTAL Revenues	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$72,115	\$4,930,441	\$4,930,435	\$4,930,428
Federal Special Revenue (03)	\$0	\$0	\$0	\$0

DOJ	FY 2022	FY 2023	FY 2024	FY 2025
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
Fiscal Impact:				
FTE	4.00	9.50	9.50	9.50
Expenditures:				
Personal Services	\$343,270	\$715,051	\$725,776	\$736,663
Operating Expenses	\$1,197,728	\$262,726	\$240,185	\$241,665
Grants for K9 Programs	\$300,000	\$0	\$0	\$0
TOTAL Expenditures	<u>\$1,840,998</u>	<u>\$977,777</u>	<u>\$965,961</u>	<u>\$978,328</u>
Funding of Expenditures:				
General Fund (01)	\$1,540,998	\$977,777	\$965,961	\$978,328
State Special Revenue (02)	\$300,000	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$1,840,998</u>	<u>\$977,777</u>	<u>\$965,961</u>	<u>\$978,328</u>
Revenues:				
General Fund (01)	(\$35,350)	(\$35,350)	(\$35,350)	(\$35,350)
SSR - DOJ Funding for K9	\$300,000	\$0	\$0	\$0
TOTAL Revenues	<u>\$264,650</u>	<u>(\$35,350)</u>	<u>(\$35,350)</u>	<u>(\$35,350)</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$1,576,348)	(\$1,013,127)	(\$1,001,311)	(\$1,013,678)
State Special Revenue (02)	\$0	\$0	\$0	\$0

JUDICIAL BRANCH	FY 2022	FY 2023	FY 2024	FY 2025
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
Fiscal Impact:				
FTE	3.00	3.00	3.00	3.00
Expenditures:				
Personal Services	345,117	345,458	350,553	355,157
Operating Expenses	\$86,614	\$62,764	\$64,219	\$65,710
TOTAL Expenditures	<u>\$431,731</u>	<u>\$408,222</u>	<u>\$414,772</u>	<u>\$420,867</u>
Funding of Expenditures:				
General Fund (01)	\$431,731	\$408,222	\$414,772	\$420,867
TOTAL Funding of Exp.	<u>\$431,731</u>	<u>\$408,222</u>	<u>\$414,772</u>	<u>\$420,867</u>
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$431,731)	(\$408,222)	(\$414,772)	(\$420,867)

FWP	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Expenditures - FWP	\$1,950,000	\$8,658,000	\$14,140,000	\$16,420,000
TOTAL Expenditures	\$1,950,000	\$8,658,000	\$14,140,000	\$16,420,000
Funding of Expenditures:				
State Special Revenue (02)	\$1,950,000	\$8,658,000	\$14,140,000	\$16,420,000
TOTAL Funding of Exp.	\$1,950,000	\$8,658,000	\$14,140,000	\$16,420,000
Revenues:				
State Special Revenue (02)	\$3,260,000	\$10,340,000	\$14,140,000	\$16,420,000
TOTAL Revenues	\$3,260,000	\$10,340,000	\$14,140,000	\$16,420,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
State Special Revenue (02)	\$1,310,000	\$1,682,000	\$0	\$0

MILITARY AFFAIRS	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Transfers - DMA Veterans	\$200,000	\$200,000	\$200,000	\$200,000
TOTAL Expenditures	\$200,000	\$200,000	\$200,000	\$200,000
Funding of Expenditures:				
State Special Revenue (02)	\$200,000	\$200,000	\$200,000	\$200,000
TOTAL Funding of Exp.	\$200,000	\$200,000	\$200,000	\$200,000
Revenues:				
State Special Revenue - Transfer to DMA for Veterans' S	\$200,000	\$200,000	\$200,000	\$200,000
TOTAL Revenues	\$200,000	\$200,000	\$200,000	\$200,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
State Special Revenue (02)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)

DOC	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Operating Expenses	\$150,000	\$150,000	\$150,000	\$150,000
TOTAL Expenditures	\$150,000	\$150,000	\$150,000	\$150,000
Funding of Expenditures:				
State Special Revenue (02)	\$150,000	\$150,000	\$150,000	\$150,000
TOTAL Funding of Exp.	\$150,000	\$150,000	\$150,000	\$150,000
Revenues:				
SSR - Board of Crime Control	\$150,000	\$150,000	\$150,000	\$150,000
TOTAL Revenues	\$150,000	\$150,000	\$150,000	\$150,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
State Special Revenue (02)	\$0	\$0	\$0	\$0

LEG	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Personal Services	\$2,879	\$1,439	\$2,922	\$1,461
Operating Expenses	\$7,819	\$2,590	\$7,936	\$2,629
TOTAL Expenditures	\$10,698	\$4,029	\$10,858	\$4,090
Funding of Expenditures:				
General Fund (01)	\$10,698	\$4,029	\$10,858	\$4,090
TOTAL Funding of Exp.	\$10,698	\$4,029	\$10,858	\$4,090
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$10,698)	(\$4,029)	(\$10,858)	(\$4,090)

STATE PUBLIC DEFENDER	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Operating Expenses	\$479	\$479	\$487	\$494
TOTAL Expenditures	\$479	\$479	\$487	\$494
Funding of Expenditures:				
General Fund (01)	\$479	\$479	\$487	\$494
TOTAL Funding of Exp.	\$479	\$479	\$487	\$494
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$479)	(\$479)	(\$487)	(\$494)
State Special Revenue (02)	\$0	\$0	\$0	\$0

STATEWIDE SUMMARY	FY 2022	FY 2023	FY 2024	FY 2025
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	20.00	28.50	36.50	36.50
<u>Expenditures:</u>				
Personal Services	\$2,150,382	\$2,835,788	\$3,562,465	\$3,627,223
Operating Expenses	\$2,985,884	(\$1,089,711)	(\$702,606)	(\$722,357)
Benefits for HEART Fund	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000
Benefits for Pain Management	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
Transfers MMP/Pain Mgmt Funds to DOR	\$4,856,017	\$0	\$0	\$0
Transfers to DMA for Veterans' Services	\$200,000	\$200,000	\$200,000	\$200,000
Grants for K9 Programs	\$300,000	\$0	\$0	\$0
Expenditures - FWP	\$1,950,000	\$8,658,000	\$14,140,000	\$16,420,000
TOTAL Expenditures	\$36,442,283	\$34,604,077	\$41,199,859	\$43,524,866
<u>Funding of Expenditures:</u>				
General Fund (01)	\$1,983,906	\$1,390,507	\$1,392,078	\$1,403,779
State Special Revenue (02)	\$15,458,377	\$14,213,570	\$20,807,781	\$23,121,087
Federal Special Revenue (03)	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
TOTAL Funding of Exp.	\$36,442,283	\$34,604,077	\$41,199,859	\$43,524,866
<u>Revenues:</u>				
General Fund (01)	\$6,254,650	\$21,584,650	\$29,664,650	\$34,504,650
SSR - FWP (02)	\$3,260,000	\$10,340,000	\$14,140,000	\$16,420,000
SSR - HEART (02)	\$6,000,000	\$6,000,000	\$6,000,000	\$6,000,000
SSR - Veterans' Services	\$200,000	\$200,000	\$200,000	\$200,000
SSR - Board of Crime Control	\$150,000	\$150,000	\$150,000	\$150,000
SSR - DOJ Funding for K9	\$300,000	\$0	\$0	\$0
SSR - AUM tax revenue (02)	\$8,690,000	\$32,580,000	\$43,980,000	\$51,310,000
SSR - MM tax revenue (02)	\$6,200,000	\$5,580,000	\$5,020,000	\$4,520,000
SSR - License Fees (02)	\$3,900,000	\$4,290,000	\$6,440,000	\$6,760,000
SSR - MMP/Pain Mgmt Funds from DPHHS	\$4,856,017	\$0	\$0	\$0
Federal Special Revenue (03)	\$19,000,000	\$19,000,000	\$19,000,000	\$19,000,000
TOTAL Revenues	\$58,810,667	\$99,724,650	\$124,594,650	\$138,864,650
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$4,270,744	\$20,194,143	\$28,272,572	\$33,100,871

Effect on County or Other Local Revenues or Expenditures:

Department of Revenue (DOR)

1. This bill, as amended, allows for a local option adult-use marijuana tax of up to 3% if approved by the voters. Local-option tax revenue would be distributed as follows:
 - a. 50% to the county,
 - b. 45% distributed between the municipalities within the county based on relative population,
 - c. 5% to the DOR for administrative costs associated with the local-option tax.

It is unknown which counties would enact the local-option tax, so there are no revenue estimates for it included in this fiscal note. For reference, if all counties that opted in to allow the sale of adult-use marijuana also enacted the local option tax at 3%, then the total local-option tax revenue would be 15% of the estimated adult-use tax revenue in this bill.

Technical Notes:**Department of Public Health and Human Services (DPHHS)**

1. This fiscal note assumes DPHHS fully expends the appropriation from the HEART fund. If revenues to the HEART fund do not support planned expenditures, expenditures will be reduced. HB 701 allows DPHHS to leverage federal Medicaid match funds with the HEART State Special Revenue fund.
2. As of 4/22/2021, the HB 2 present law adjustment requested for \$1 million per year of Pain Management expenditures, as included in the Governor's budget, has not been approved.
3. Section 50(5) requires the state laboratory to test marijuana and marijuana products. Marijuana is designated as a Schedule 1 drug under the federal Controlled Substances Act (21 U.S.C. § 801 et seq). Under federal law, the state laboratory cannot test marijuana or marijuana products unless it registers with the federal Drug Enforcement Agency (DEA) as an analytical lab. This registration imposes a number of responsibilities for the registrant related to subjects such as storage, inventory, receiving, and usage of a controlled substance. The state laboratory receives a significant amount of federal funding. All federal grantees or recipients of federal contracts of \$100,000 or more are subject to the Drug-Free Workplace Act. The Act requires grantees and contractors to prepare and distribute a formal drug-free workplace statement and establish awareness programs, and also requires notification and direct action in response to drug violations by covered employees. *See* 41 U.S.C. § 8102; 8103. Failure to comply with the Act can be grounds for suspension, termination, or debarment for the purposes of federal grants or contracts. 41 U.S.C. § 8102(b) & 8103(b). If the state laboratory were to test marijuana or marijuana products without being registered with the DEA as an analytical lab, its federal funding would be jeopardized under the Drug-Free Workplace Act.
4. Section 50(9) removes the ability for the state laboratory to revoke a testing laboratory's license upon determination that the testing laboratory is providing fraudulent or misleading test results or providing test results without the proper equipment. It is assumed that the Department of Revenue will be responsible for the revocation, based on interagency communication of adverse inspection findings from DPHHS.
5. The MMP currently operated by DPHHS is moved as of July 1 to DOR (FY 2022). There are several accounting and operational procedures that must take place in DPHHS accounting records to close out FY 2021, concurrent with the new operation of the program in DOR. These activities will not be completed until the end of July 2021. DPHHS and DOR will require technical assistance from the Office of Budget and Program Planning, as well as State Accounting, to ensure all accounting and fiscal tasks are completed in the appropriate order of operation to effectively transfer the program in the state budget and accounting records.

Department of Justice (DOJ)

6. The DOJ has no source of funding available to pay damages in the event the agency loses a case. In the event of a large agency loss, additional appropriation would be needed.

Judicial Branch

7. Section 48 restricts the sentencing court or any other court from expunging or resentencing a marijuana conviction and places the jurisdiction entirely under the marijuana conviction court. This could result in delays in addressing the petitions if only one judge in the state has jurisdiction after July 1, 2021.
8. The amended bill does not include an appropriation to the Judicial Branch for the costs related to section 102. An appropriation would need to be amended into the bill or included in HB 2.

Office of the State Public Defender

9. OPD will not be representing petitioners on petitions for expungement. OPD will represent petitioners on resentencing if they qualify for our services. OPD may appear in the expungement court for a defendant where expunging a prior conviction is necessary for the representation of the client in another criminal proceeding where we are appointed. There may be an increase in costs that OPD is currently unable to quantify.

Office of Budget and Program Planning (OBPP)

10. The following table represents the change in revenue allocations between present law as it was passed by the electorate in I-190, and the proposed changes in HB 701 without regard to the changes to the medical marijuana program:

Present Law I-190 Revenue Collection and Allocation (millions)										
FY	Distributable Revenue	General Fund	SSR Total	HEART Fund	Board of Crime Control	DOJ Grants	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	\$13.03	\$1.37	\$11.66	\$0.00	\$0.00	\$0.00	\$6.45	\$2.61	\$1.30	\$1.30
2023	\$33.88	\$3.56	\$30.32	\$0.00	\$0.00	\$0.00	\$16.77	\$6.78	\$3.39	\$3.39
2024	\$45.87	\$4.82	\$41.05	\$0.00	\$0.00	\$0.00	\$22.71	\$9.17	\$4.59	\$4.59
2025	\$52.54	\$5.52	\$47.02	\$0.00	\$0.00	\$0.00	\$26.01	\$10.51	\$5.25	\$5.25
Total	\$145.32	\$15.26	\$130.06	\$0.00	\$0.00	\$0.00	\$71.93	\$29.06	\$14.53	\$14.53

HB 701 Revenue Collection and Allocation (millions)										
FY	Distributable Revenue	General Fund	SSR Total	HEART Fund	Board of Crime Control	DOJ Grants	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	\$16.20	\$6.29	\$9.91	\$6.00	\$0.15	\$0.30	\$3.26	\$0.00	\$0.20	\$0.00
2023	\$38.31	\$21.62	\$16.69	\$6.00	\$0.15	\$0.00	\$10.34	\$0.00	\$0.20	\$0.00
2024	\$50.19	\$29.70	\$20.49	\$6.00	\$0.15	\$0.00	\$14.14	\$0.00	\$0.20	\$0.00
2025	\$57.32	\$34.54	\$22.77	\$6.00	\$0.15	\$0.00	\$16.42	\$0.00	\$0.20	\$0.00
Total	\$162.02	\$92.14	\$69.87	\$24.00	\$0.60	\$0.30	\$44.17	\$0.00	\$0.80	\$0.00


Revenue Impacts of HB 701 (millions)										
FY	Distributable Revenue	General Fund	SSR Total	HEART Fund	Board of Crime Control	DOJ Grants	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	\$3.17	\$4.92	(\$1.75)	\$6.00	\$0.15	\$0.30	(\$3.19)	(\$2.61)	(\$1.10)	(\$1.30)
2023	\$4.43	\$18.06	(\$13.63)	\$6.00	\$0.15	\$0.00	(\$6.43)	(\$6.78)	(\$3.19)	(\$3.39)
2024	\$4.32	\$24.88	(\$20.56)	\$6.00	\$0.15	\$0.00	(\$8.56)	(\$9.17)	(\$4.39)	(\$4.59)
2025	\$4.78	\$29.03	(\$24.25)	\$6.00	\$0.15	\$0.00	(\$9.58)	(\$10.51)	(\$5.05)	(\$5.25)
Total	\$16.70	\$76.90	(\$60.20)	\$24.00	\$0.60	\$0.30	(\$27.77)	(\$29.06)	(\$13.73)	(\$14.53)



 Sponsor's Initials

4-26-21

 Date



 Budget Director's Initials

4-26-21

 Date